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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,666	05/03/2006	Naniwada Koji	09792909-6629	4359

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EXAMINER

TAKAOKA, DEAN O

ART UNIT	PAPER NUMBER
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2817

MAIL DATE	DELIVERY MODE
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10/16/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/595,666	Applicant(s) KOJI, NANIWADA	
	Examiner DEAN O. TAKAOKA	Art Unit 2817	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 2 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,6 and 8 is/are rejected.
- 7) ☒ Claim(s) 4 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/18/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed September 18, 2008 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because NPL document of Clark T.C. Nguyen "RF Mems for Wireless Applications" does not contain a date. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Frey et al. (US 6,489,864).

1. Frey shows a micro-resonator (cols. 1, 2) comprising: a substrate; a plurality of micro-resonator devices (8a, b) having a beam structure on a said substrate: wherein, said beam structure includes a vibrating electrode beam, and said micro-resonator devices

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are electrically connected in parallel (Fig. 3).

3. A micro-resonator according to claim 1, wherein each of said plurality of micro-resonator devices is composed of an input electrode (7 – col. 4, Ins 6,7) on the same plane as the substrate, an output electrode (7) on the same plane as the substrate and parallel to the input electrode, a space between the input electrode and the output electrode, a vibrating electrode beam serving as a diaphragm crossing over the space between the input electrode and the output electrode and in an opposing relation to the input electrode and the output electrode (Fig. 5).

5. A communication apparatus comprising: a filter for band-limiting a transmission signal and/or a reception signal (inherent by definition where the filter of Frye (col. 2, In 11) inherently limits transmission signals), wherein the filter comprises: a micro-resonator with a plurality of micro-resonator devices having a beam structure on a substrate (8a, b), the micro-resonator devices are electrically connected in parallel (Fig. 3), and the beam structure includes a vibrating electrode beam (e.g. Fig. 2).

6. A communication apparatus according to claim 5, wherein each of said plurality of micro-resonator devices in said filter includes: an input electrode (7) on the same plane as the substrate, an output electrode (7) on the same plane as the substrate and parallel to the input electrode, a space between the input electrode and the output electrode (Fig. 5), and an vibrating electrode beam (8a, b) serving as a diaphragm crossing over the space between the input electrode and the output electrode and in an opposing relation to the input electrode and the output electrode.

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8. A communication apparatus according to claim 5, wherein each of said plurality of micro-resonator devices in said filter includes: an input electrode (7) on the same plane as the substrate, an output electrode (7) on the same plane as the substrate and parallel to the input electrode, a space between the input electrode and the output electrode, more than one vibrating electrode beam (8a, b) crossing over the space between the input electrode and the output electrode in an opposing relation to the input electrode and the output electrode, each beam serving as a diaphragm and parallel to each other (Fig. 5).

Allowable Subject Matter

Claims 4 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments, contained under heading III, filed August 28, 2008, with respect to the rejection(s) of claim(s) 1 – 8 under Guillion et al. have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Frey et al. contained in the reasons for rejection above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEAN O. TAKAOKA whose telephone number is (571)272-1772. The examiner can normally be reached on 9:00a - 5:30p Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pascal can be reached on (571) 272-1769. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dean O Takaoka/
Primary Examiner, Art Unit 2817